

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL APPEAL No 260 of 1991

For Approval and Signature:

Hon'ble MR.JUSTICE B.J.SHETHNA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
 5. Whether it is to be circulated to the Civil Judge? : NO
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STATE OF GUJARAT

Versus

ARVINDBHAI H PUROHIT

Appearance:

1. Criminal Appeal No. 260 of 1991
MR ND GOHIL, ADDL.PUBLIC PROSECUTOR for Petitioner No. 1
MR RD DAVE for Respondent No. 1
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CORAM : MR.JUSTICE B.J.SHETHNA

Date of decision: 08/08/2001

ORAL JUDGEMENT

The State of Gujarat has filed this appeal against the order of acquittal passed by the learned Additional Sessions Judge on 21.1.1991 in Criminal Appeal No. 1 of 1987 filed by the respondent accused, whereby he

allowed the appeal and set aside the judgement and order of conviction and sentence dated 20.12.1986 passed by the learned Chief Judicial Magistrate, Junagadh.

The Food Inspector took sample of buffalo milk on 4.3.1984. The same was found to be adulterated as per the public analyst's report. Another sample was sent to the Central Food Laboratory. The report of Central Food Laboratory also superseded the report of public analyst. As per the report of the Central Food Laboratory also it was found to be adulterated as percentage of fat was less than the prescribed standard. Therefore, a complaint being Criminal Case No. 1718/84 was directly filed before the Court of learned Chief Judicial Magistrate, against Shri Harishankar Kanjibhai Purohit owner of the milk shop as accused No.1 and Shri Arvind Harishankar, who was working at the milk shop of the accused No.1.

Considering the fact that accused No.1 owner of the shop was very old and that he had nothing to do with the selling of the milk, the learned Chief Judicial Magistrate First Class himself acquitted him but found accused No.2 Arvind Harishankar guilty for the offence under Section 7 read with Sec. 46 of the Prevention of Food Adulteration Act and sentenced him to suffer six months RI and fine of Rs. 500/-, in default to further undergo two months RI, by judgement and order dated 20.12.1986.

The aforesaid order of conviction and sentence passed by the trial Court was challenged by the accused No.2 Arvindbhai Harishankar Purohit before the Sessions Court in Criminal Appeal No. 1/87. The same was allowed on 21.1.1991 on the ground that the complainant failed to prove that the sample of milk sent to Central Food Laboratory was adulterated or not. Accordingly, the order of conviction and sentence of accused No.2 was set aside. This order of acquittal dated 21.1.1991 was challenged by the State in this appeal, which was admitted on 17.7.1991. The same was placed for final hearing board of 6th July, 2001 and it is reached today.

Considering the fact that the offence alleged to have taken place way back on 4.3.1984 i.e. more than 17 years from today and the sample of buffalo milk was found to be adulterated with less percentage and the learned Magistrate himself acquitted the accused No.1 owner of the shop, then in such type of cases where the appellate Court interfered with the order of conviction of the present respondent No.2 - original accused No.2 who was simply working at the shop, cannot be interfered after

such a long time. Though I am not agreeable with the reasoning assigned by the learned Appellate Judge for acquitting the accused, but that itself would not be a ground for this Court to interfere with such order of acquittal. Pendency of this appeal for last more than 10 years itself would be more than sufficient punishment to the respondent accused.

In view of the above discussion, this appeal fails and is dismissed. Bail bond stands cancelled.

(B.J.Shethna, J.)

*/Mohandas